

The article was also charged to be adulterated and misbranded under the provisions of the law applicable to foods, as reported in F. N. J. No. 2645.

On March 24, 1941, the defendant having entered a plea of nolo contendere, the court imposed a fine of \$150.

**482. Adulteration and misbranding of sardine oil. U. S. v. Industrial Oil Products Corporation. Plea of nolo contendere. Fine, \$100 on count I. Imposition of sentence suspended on remaining counts. (F. D. C. No. 4155. Sample Nos. 24504-E, 40103-E.)**

This veterinary product contained less vitamin D than the amount declared on the label.

On August 7, 1941, the United States attorney for the Southern District of California filed an information against the Industrial Oil Products Corporation, trading at Los Angeles, Calif., alleging shipment on or about September 4 and October 24, 1940, from the State of California into the State of New Jersey of quantities of sardine oil which was adulterated and misbranded. The article was labeled in part: "Fox Special Sardine Oil \* \* \* The Fox Company, Newfield, New Jersey."

It was alleged to be adulterated in that its strength differed from and its quality fell below that which it purported or was represented to possess since it was represented in its labeling to contain 85 A. O. A. C. chick units of vitamin D per gram; whereas it contained less than so represented, the product in one shipment containing not more than 60 and that in the other shipment containing not more than 65 A. O. A. C. chick units of vitamin D per gram.

It was alleged to be misbranded in that the statement "Guaranteed 85 AOAC Chick Units of Vitamin D per Gram," borne on the drum, was false and misleading since the article contained less than 85 A. O. A. C. chick units of vitamin D per gram.

The article was also alleged to be adulterated and misbranded under the provisions of the law applicable to foods, as reported in F. N. J. No. 2648.

On August 28, 1941, a plea of nolo contendere having been entered, the court sentenced the defendant to pay a fine of \$100 on count I and suspended imposition of sentence on the remaining 7 counts.

#### DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING STATEMENTS IN THE LABELING<sup>a</sup>

Nos. 483 to 536, inclusive, report actions based on interstate shipment of drugs or devices the labeling of which contained false and misleading statements—in most instances regarding their therapeutic efficacy.

**483. Misbranding of El Panal Cuban Honey. U. S. v. Albert H. Hoffman (Hoffman Health Products Co.). Plea of guilty. Fine, \$50. (F. D. C. No. 960. Sample No. 65858-E.)**

This honey was falsely labeled to indicate that it possessed minerals and other nutritional elements materially in excess of those contained in ordinary honey. Its label also bore false and misleading representations regarding its efficacy in the conditions indicated below.

On May 28, 1940, the United States attorney for the Southern District of Florida filed an information against Albert H. Hoffman, trading as Hoffman Health Products Co., Tampa, Fla., alleging shipment on or about October 14, 1939, from the State of Florida into the State of North Carolina, of a quantity of El Panal Wonder Honey that was misbranded. The article was labeled in part: "El Panal Cuban Honey. Imported direct from Cuba."

The article was alleged to be misbranded in that certain statements in the labeling were false and misleading since they represented and implied that it was a "Wonder Honey," i. e., that it differed materially from ordinary honey; and that it contained minerals which help build nerve, bone, and muscle tissue materially in excess of those contained in ordinary honey; that it would supply the elements valuable in ailments resulting from mineral deficiencies in amounts materially in excess of such minerals found in ordinary honey; that it possessed proportionately high amounts of potassium, sodium, calcium, magnesium, iron, phosphorus, chlorine, sulfur, silicon, and undetermined minerals; that it possessed value as a food, body builder, and constructive nutritional factor materially in excess of that possessed by ordinary honey; and that it contained minerals and other nutritional elements lacking in other honey;

<sup>a</sup> See also Nos. 426, 427, 429, 431-434, 436-448, 451-454, 459, 460, 468, 470, and 471.

whereas it did not differ materially from ordinary honey. It was alleged to be misbranded further in that certain statements in the labeling were false and misleading since they represented that it possessed efficacy as a dietary supplement in the treatment of sinus, coughs, asthma, hay fever, constipation, stomach ulcers, digestive ailments; that it possessed efficacy as a general tonic and body builder and had produced effective results in the treatment of such ailments; that it possessed natural healing properties; that it was of great value to both children and adults who are anemic, have poor appetite and other symptoms of rundown condition; that it would alkalize, vitalize, and upbuild the body; that it would aid in preventing respiratory ailments and would build resistance; that it was efficacious to produce improvement in general health of children; that it was efficacious in relieving the attacks of asthma, coughs, and bronchitis; would help remove mucus and was a boon to raw and inflamed respiratory tracts; that it was efficacious in relieving pain, reducing inflammation and healing the ulcerous surfaces in ulcers of the stomach; that it was efficacious in bowel and colon trouble by helping to change the intestinal flora, and that its lubricating effect would aid in relieving pain and discomfort and assist nature to overcome the ailment; that it was an accessory of great value in many disease conditions; that it was beneficial for asthma and kindred disorders; that it contained a pollen which would counteract the pollen which causes hay fever; that it was highly beneficial for stomach disorders such as ulcers, and for combating constipation; that it was efficacious for various pathogenic conditions of the body; that its healing properties were without equal; that it was efficacious to relieve bronchial asthma and sinus condition and to prevent choking sensation of asthma and to induce restful sleep; that it was efficacious to heal ulcerated stomach; that it was efficacious as a tonic and body builder and would induce increase in weight; that it was efficacious in the treatment of rundown conditions; highly mucous condition of the throat and chest, and enlarged tonsils; that it would promote sound restful sleep and build health, and that it had accomplished wonderful results in the aforesaid conditions; whereas it would not be efficacious for such purposes.

On July 18, 1941, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$50.

**484. Misbranding of Diabet Tea. U. S. v. Paul Constantini, Angelo Constantini, and Anselmo Constantini (Diabet Tea Co.).** Case tried to a jury. Verdict of guilty. Fines, \$150. Defendants all placed on probation for three years. (F. D. C. No. 2969. Sample No. 34721-E.)

The labeling of this product bore false and misleading representations regarding its efficacy in the treatment of diabetes.

On May 16, 1941, the United States attorney for the Middle District of Pennsylvania filed an information against Paul Constantini, Angelo Constantini, and Anselmo Constantini, copartners trading as Diabet Tea Co. at Scranton, Pa., alleging shipment by said defendants on or about September 9, 1940, from the State of Pennsylvania into the State of New York of a quantity of Diabet Tea that was misbranded.

Analysis of a sample of the article showed that it consisted of the ground herb *Hypericum perforatum*, commonly known as St. Johnswort.

The article was alleged to be misbranded in that the statements on the label, "Nature's Food Diabet-Tea for Diabetes. The contents of this package has been carefully prepared for the use of those who suffer from diabetes," were false and misleading since they represented that it was for the cure, mitigation, treatment, or prevention of diabetes; whereas it was worthless for such purposes.

On November 5, 1941, the case was tried before a jury, which returned a verdict of guilty, and the defendants were each fined \$50. Imposition of jail sentences was suspended and the defendants were placed on probation for 3 years.

**485. Misbranding of Kurex Diabetic Tonic. U. S. v. Kurex Hillgrove Laboratories, Inc., Richard F. Hillgrove, and Walter P. Weihe.** Pleas of nolo contendere. Corporation fined \$250. Richard F. Hillgrove and Walter P. Weihe fined \$250 but payment ordered suspended. (F. D. C. No. 2935. Sample No. 27071-E.)

The labeling of this product bore false and misleading representations regarding its efficacy in the conditions indicated hereinafter and failed to declare the common or usual name of each active ingredient.

On March 19, 1941, the United States attorney for the Southern District of Ohio filed an information against the Kurex Hillgrove Laboratories, Inc., Cincinnati,